



UNITED NATIONS

State Dept. declassification & release instructions on file



THIRD CONFERENCE ON THE LAW OF THE SEA

Distr.
LIMITED

A/CONF.62/C.3/L.31
5 May 1975.

Original: ENGLISH

THIRD COMMITTEE

Texts on Item 13 (Scientific Research)
and Item 14 (Development and Transfer
of Technology)

I. Proposals Received by the Chair as Possible Consolidated Texts

A. Legal Status of Installations for Marine Scientific Research

Alternative One

1. The deployment and use of any type of marine scientific research installations in the marine environment shall be subject to the same conditions as those for the conduct of marine scientific research.
2. The deploying State shall exercise such powers as are necessary for the use and maintenance of such installations without prejudice to the rights and obligations of the coastal State under this Convention in the area where a particular installation is deployed.
3. Nothing in the foregoing paragraphs affects the jurisdiction of the coastal State as provided in Chapter _____ of this Convention.

Alternative Two

1. The deployment and use of any type of scientific research installations or equipment in the marine environment shall be subject to the same conditions as those for the conduct of marine scientific research.
2. In areas under the sovereignty and/or jurisdiction of coastal States, the deployment and use of such installations and equipment shall be subject to the consent of the said States and:
 - (a) the ownership, the operation and management of and the responsibility for scientific installations or equipment shall remain with the State which has deployed them.
 - (b) the overall jurisdiction to ensure that the installations and equipment are used in conformity with the purposes and conditions prescribed for the scientific research project shall remain with the coastal State.

B. Responsibility and Liability

States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with the provisions of this Convention.

They shall be liable in conformity with International Law and the provisions of this Convention 1/ for damage arising out of marine scientific research undertaken by them or on their behalf.

States shall also take the necessary legislative or regulatory measures to prohibit any conduct of marine scientific research by their nationals, natural or juridical, or by other persons under their jurisdiction, which is in contravention of the provisions of this Convention and to establish sanctions therefore.

States shall ensure that recourse is available in accordance with their legal systems for compensation or other relief in respect of damages arising out of marine scientific research.

States undertake to co-operate in the development of International Law relating to procedures for the assessment of damage, the determination of liability, the payment of compensation and the settlement of related disputes.

The liability in respect of damage caused within the area under national jurisdiction and/or sovereignty of a coastal State arising from marine scientific research activities within the aforementioned area or outside the area, but having adverse effects within the aforementioned area, shall be governed by the law of the coastal State taking into account the relevant principles of International Law. 2/

[or]

Delete this paragraph.

1/ If no further provisions regarding liability for damage arising out of marine scientific research are included in the Convention, then the words "and the provisions of this Convention" would be deleted.

2/ Since this issue can be directly related to discussions to be made on the legal regime for scientific research, it should be discussed at a later time following such discussions.

C. Development and Transfer of Technology

1. All States either directly or through appropriate international organizations shall co-operate within their capabilities to actively promote the development and transfer of marine sciences and marine technology at fair and reasonable terms, conditions and prices.

States in particular shall promote the development of the marine scientific and technological capacity of developing States including land-locked and geographically disadvantaged States,^{1/} in consonance with their economies and needs, with regard to the exploration, exploitation, conservation and management of marine resources, the preservation of the marine environment and the equitable and legitimate uses of marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

In promoting such co-operation States shall have proper regard for all legitimate interests including, inter alia, the rights and duties of holders, suppliers and recipients of technology.

2. To this end, States, either directly or through appropriate international organizations, shall, inter alia:

[OR]

Such international co-operation, where feasible and appropriate, shall be through existing bilateral, regional or multilateral programmes, and also through expanded and new programmes to facilitate marine scientific research and the transfer of marine technology in new fields, including co-operation in:

[AND]

- (a) promote the acquisition, evaluation and dissemination of marine scientific and technological knowledge;

^{1/} The question of the definition of the words "geographically disadvantaged States" needs to be considered further in the appropriate forum of the Conference.

- (b) promote the development of appropriate marine technology;
- (c) promote the development of the necessary technological infrastructure to facilitate the transfer of marine scientific technology in consonance with the economy and the needs of the recipient country;
- (d) promote the development of human resources through training and education and especially the training of national personnel of a lesser developed State;
- (e) facilitate access to scientific and technological information and data; and
- (f) promote international co-operation at all levels, particularly at the regional, subregional and bilateral levels.

3. In order to achieve the above-mentioned objectives, States, either directly or through the appropriate international organizations shall endeavour to, inter alia:

- (a) establish programmes of technical co-operation for the effective transfer of all kinds of marine technology to developing States, particularly the developing land-locked States which, due to their geographically disadvantaged situation, have not been able to either establish or develop their own technological capacity in marine science and in the exploration and exploitation of the marine resources, and to develop the infrastructure for such technology;
- (b) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;
- (c) hold conferences, meetings and seminars on appropriate scientific and technological subjects;
- (d) promote the exchange of scientists, technologists and other experts;
- (e) undertake projects, promote joint-ventures, mixed enterprises (including State enterprises) and other forms of bilateral and multilateral co-operation.

4. States shall endeavour to ensure that international organizations competent in the field of the transfer of technology co-ordinate their activities in this field, including any regional or international programmes, taking into account the interests and needs of the developing States, including land-locked and geographically disadvantaged States.

II. Texts Submitted as Conference Room Papers to the Informal Meetings

A. Conduct and Promotion of Marine Scientific Research

CANADA:

1. Marine scientific research in the waters of the economic zone shall be facilitated where possible through bilateral, regional and multilateral agreements. Similarly, research not undertaken under the auspices of such agreements shall be facilitated through the negotiation of mutually acceptable conditions. Research projects shall normally be agreed to when the applicant:

- (a) provides the coastal State with a full description of:
 - (i) the nature and objectives of the research project;
 - (ii) the means to be used, name, tonnage, type and class of vessels and relevant scientific equipment;
 - (iii) the geographical areas in which the activities are to be conducted;
 - (iv) the expected date of first appearance and final departure of the research vessel or equipment as the case may be; and
 - (v) the name of the sponsoring institute, its director and the scientist(s) in charge of the expedition.
- (b) undertakes to, if the coastal State desires:
 - (i) ensure the right of the coastal State to participate or to be represented in all phases of the research project;
 - (ii) provide to the coastal State on an agreed basis raw and processed data and samples of materials;
 - (iii) assist the coastal State in assessing the data and results; in particular, if requested, submit to the coastal State as soon as practicable after the completion of the research a report;
 - (iv) ensure that research results are published as soon as feasible in a readily available scientific publication unless otherwise agreed;
 - (v) comply with all relevant provisions of this convention; and
 - (vi) fulfill any other requirement that may be agreed upon.

If negotiation should fail to produce accord, the right to refuse consent shall rest with the coastal State.

2. If marine scientific research programmes are being carried out in the international area, the appropriate international body shall be so notified (Article ____), as well as adjacent coastal States, in the event that research incidental to the research programme is likely to be required in the waters of the economic zone of the coastal States concerned. A State receiving such notification shall have the right to object.

A proponent State receiving no objection will assume agreement and will inform the coastal State of its intention to proceed with the research programme prior to entry into the Economic Zone concerned.

3. In the event of lost or drifting equipment entering the waters of the Economic Zone of a coastal State, the coastal State shall attempt to recover and return the equipment if consent to recover is not granted to the researching State.

4. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

B. Legal Status of Installations for Marine Scientific Research

1. BRAZIL

The emplacement of any type of scientific research installations in areas under national jurisdiction and/or Sovereignty shall be subject to authorization by the coastal State concerned and such installations shall be under its jurisdiction.

2. PAKISTAN

The emplacement of scientific research installations within the areas under national jurisdiction and/or Sovereignty of a State shall be subject to authorization by the coastal State concerned and such installations shall be under its jurisdiction unless otherwise agreed by the coastal State at the time of granting its consent.

3. MEXICO

The emplacement of any type of scientific research installations or devices within the areas of the marine environment under national jurisdiction and/or Sovereignty of a State shall be subject to authorization by the coastal State concerned and such installations shall be under its jurisdiction unless otherwise agreed by the coastal State at the time of granting its consent.

4. FRANCE

Scientific research installations (oceanographic data acquisition systems) may be emplaced within the limits of the national jurisdiction of a coastal State only with the consent of that State and on the conditions specified in article ... (conditions for the conduct of scientific research).

Such installations shall, in principle, remain subject to the competence of the State which has emplaced them or in which they are registered, unless otherwise agreed between the State conducting the research and the coastal State. This principle shall not affect the powers otherwise attributed to the coastal State in the area in which such installations are emplaced.

5. NETHERLANDS

1. All fixed or floating installations or devices, not being ships, used for marine scientific research in the marine environment, shall be registered with a State party to this convention, which State shall notify the appropriate international organization of such registration.

2. Fixed or floating installations or devices, not being ships, used for marine scientific research in the marine environment, shall be subject to the jurisdiction of the State of registration.

3. In case such installations or devices are deployed in an area where a coastal State exercises certain rights over resources in accordance with this convention, they shall be subject to the jurisdiction of the State of registration, unless otherwise agreed by the States parties concerned.

4. Fixed installations or devices in the territorial sea of a State other than the State of registration shall be only emplaced with the consent of the coastal State which shall exercise jurisdiction over such installations or devices, unless otherwise agreed by the States parties concerned.

5. If floating installations or devices are found in the territorial sea of another State than the State of registration, the coastal State shall immediately notify the State party concerned and shall exercise such jurisdiction over such installations or devices as is necessary for the safety of navigation.

6. TRINIDAD AND TOBAGO

The emplacement of any type of scientific research installations in areas under national jurisdiction and/or Sovereignty of a coastal State shall be subject to the authorization of the coastal State.

Such installation shall also be under the jurisdiction of the coastal State unless otherwise agreed by the coastal State at the time of granting its consent.

The day-to-day operation and management of the installations shall be under the competence and control of the State which emplaced them.

7. MEXICO

Amendment to the text proposed by Trinidad and Tobago, (see 6 above). In the third paragraph delete the words "shall be under the competence and control of" and replace them with the words "or devices shall be undertaken by".

8. TURKEY AND TUNISIA

No type of scientific research installation or equipment shall be emplaced within the areas of national jurisdiction and/or Sovereignty of a coastal State without the consent of that State.

In principle such installations shall remain subject to the competence of the State which has emplaced them but shall be under the control of the coastal State. Special agreements may, however, be concluded between the above-mentioned States with regard to the exercise of their respective competences.

9. FEDERAL REPUBLIC OF GERMANY

The emplacement and use of marine scientific research installations in areas where a coastal State enjoys certain rights in accordance with this convention shall be subject to the same conditions as for the conduct of marine scientific research in such areas. The ownership, the operation and day-to-day management of and the responsibility for marine scientific research installations shall remain with the State which has emplaced them.

C. Responsibility and Liability

INDIA

1. The responsibility and liability in respect of damage caused within the area under national jurisdiction and/or sovereignty of a coastal State arising from marine scientific research activities within the aforementioned area or outside that area but having adverse effect within the aforementioned area, shall be governed by the laws of that coastal State.
2. Where damage is caused in the international area arising from the marine scientific activities conducted in that area or within the area under national jurisdiction and/or sovereignty, the States of the region as well as the other States concerned shall co-operate with one another to elaborate the principles concerning responsibility and liability for such damage.

BELGIUM, FRANCE, GERMANY, FEDERAL REPUBLIC OF, IRELAND, NETHERLANDS

1. Every State shall be responsible for ensuring that marine scientific research, whether it is carried out by itself or by persons subject to its jurisdiction, be conducted in conformity with the provisions of this convention and with other rules of international law.
2. Every State shall take the necessary legislative measures to provide that if itself or persons subject to its jurisdiction, through the conduct of marine scientific research, cause damage to persons or property, there shall be recourse in its courts in accordance with its legal system for compensation or other relief in respect to such damage.

UNION OF SOVIET SOCIALIST REPUBLICS

States shall be responsible for ensuring that marine scientific research, whether conducted by themselves or by their physical or juridical persons, is conducted in accordance with the provisions of this Convention and other rules of international law.

States shall be liable for damage, arising out of marine scientific research, caused to other States or to the juridical or physical persons of other States, when such damage is attributable to them. When such damage is attributable to their physical and juridical persons, States undertake to provide recourse to their appropriate organs with a view to ensuring equitable compensation for the victims thereof.

TRINIDAD AND TOBAGO

Liability for any pollution damage within or beyond national jurisdiction arising from marine scientific research within the national jurisdiction of a State shall be borne by the entity responsible for such damage.

CANADA

States shall be responsible for marine scientific research conducted in the marine environment by them or by their nationals, natural or juridical.

States shall be liable for damage, caused to the marine environment, including damage to other States and their environment arising out of marine scientific research when such damage is attributable to them. When such damage is attributable to their nationals, States undertake to provide recourse with a view to ensuring equitable compensation for the victims thereof. Where no such recourse is available, the State of the damaged party may present to the State having jurisdiction over the person or persons responsible for the damage in question, a claim for the damage caused.

With respect to damage caused in or to areas beyond the limits of national jurisdiction by marine scientific activities, States undertake to co-operate in the development of international law relating to procedures for the assessment of damage, the determination of liability, the payment of compensation and the settlement of related disputes.